

**TENNESSEE DEPARTMENT OF REVENUE  
LETTER RULING #00-53**

**WARNING**

**Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy**

**SUBJECT**

Application of the Tennessee sales and use tax to [CLEANING SUPPLIES] used pursuant to regulations of the [FEDERAL AGENCY].

**SCOPE**

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the Department by the taxpayer. The rulings herein are binding upon the Department and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time.

Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling, and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

**FACTS**

[TAXPAYER] is a manufacturer of [PRODUCTS] compounded and packaged for distribution at its production facility located in Tennessee. The taxpayer has an industrial machinery authorization for this location from the Tennessee Department of Revenue. The taxpayer operates several compounding and packaging lines through which it produces multiple products.

The [FEDERAL AGENCY] regulations, [REGULATION PROVISIONS], require the taxpayer to clean and maintain its manufacturing equipment. The taxpayer utilizes [CLEANING SUPPLIES] for the cleaning and sanitizing of parts internal and integral to the processing function. The cleaning and sanitizing process is also a [SYSTEM] that captures the waste product and water for removal to the “pollution control facility” to treat and dispose of the hazardous waste.

## **QUESTION**

Is there an exemption from the Tennessee sales and use tax for the [CLEANING SUPPLIES] described in the ruling request?

## **RULING**

No. The [CLEANING SUPPLIES] described in the ruling request are not exempt from the Tennessee sales and use tax.

## **ANALYSIS**

Tennessee taxes the retail sale or the use of tangible personal property in this State. Tenn. Code Ann. §§ 67-6-202 and 67-6-203. However, industrial machinery is exempt from the tax. Tenn. Code Ann. § 67-6-206(a).

Industrial machinery is defined as follows:

Machinery, apparatus and equipment with all associated parts, appurtenances and accessories, including hydraulic fluids, lubricating oils, and greases necessary for operation and maintenance, repair parts and any necessary repair or taxable installation labor therefore, which is necessary to, and primarily for, the fabrication or processing of tangible personal property for resale and consumption off the premises, ... where the use of such machinery, equipment or facilities is by one who engages in such fabricating or processing as one’s principal business ... .  
Tenn. Code Ann. § 67-6-102(13)(A).

The taxpayer already possesses an industrial machinery authorization for the location at issue from the Tennessee Department of Revenue. There is no question in the ruling request regarding whether the taxpayer qualifies for the exemption as a manufacturer. This ruling request is limited to the [CLEANING SUPPLIES] that the taxpayer uses for machinery that already has been determined to qualify for the industrial machinery exemption.

The main issue is whether the [CLEANING SUPPLIES] qualify as accessories or appurtenances to the industrial machinery. The examples given in the statute are “hydraulic fluids, lubricating oils, and greases necessary for operation and maintenance ... .” Tenn. Code Ann. § 67-6-102(13)(A). The examples indicate that an item must be an integral part of a functioning machine in order to be included in the exemption. The

[CLEANING SUPPLIES] at issue are not an integral part of a functioning machine, and they are not analogous to the examples included in the statute. The regulatory requirements of the [FEDERAL AGENCY] do not alter this result.

Furthermore, the industrial machinery exemption has a temporal requirement, as described in Nuclear Fuel Services, Inc. v. Huddleston, 920 S.W.2d 659, 663 (Tenn. App. 1995). To qualify for the industrial machinery exemption, the accessory or appurtenance must be used “during the manufacturing process.” Id. The [CLEANING SUPPLIES] at issue do not meet this temporal requirement, regardless of whether they are accessories or appurtenances (which they are not).

The facts given indicate that the [CLEANING PROCESS INVOLVES A SYSTEM] that removes hazardous waste to a “pollution control facility.” However, the facts given do not establish that the [CLEANING SUPPLIES] at issue qualify as part of a “pollution control facility” under the law. Tenn. Code Ann. § 67-6-102(13)(A)(iv). The primary purpose of the [CLEANING SUPPLIES] is to clean the machinery and to satisfy the requirements of the [FEDERAL AGENCY]. Their primary purpose is not to eliminate, prevent, treat or reduce pollution. Therefore, the [CLEANING SUPPLIES] do not qualify as part of a “pollution control facility.”

The [CLEANING SUPPLIES] at issue do not qualify for the exemption established by Tenn. Code Ann. § 67-6-346. This statute only applies when the taxpayer is required by “pollution control laws or regulations” to clean up pollution that the taxpayer creates as a by-product of its operations. The regulations of the [FEDERAL AGENCY] by their own terms are intended to preserve the safety of the actual products created and sold by the taxpayer. Such regulations clearly are not “pollution control laws or regulations.”

The [CLEANING SUPPLIES] at issue do not fall within the exemption for industrial machinery, and they do not fall within any other exemption from the Tennessee sales and use tax. “[T]he burden is on the taxpayer to establish his exemption; every presumption is against it and a well-founded doubt is fatal to the claim.” Nuclear Fuel Services, Inc. v. Huddleston, 920 S.W.2d 659, 661 (Tenn. App. 1995). The [CLEANING SUPPLIES] at issue are tangible personal property that are subject to the Tennessee sales and use tax.

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APPROVED: Ruth E. Johnson  
Commissioner of Revenue

DATE: 12/14/00